

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
Oakland Venue

Amended Petition for Warrant for Person Under Supervision

Person Under Supervision

James Richards

Docket Number

0971 4:08CR00194-001 SBA

Name of Sentencing Judge: The Honorable Sandra Brown Armstrong
Senior United States District Judge

Date of Original Sentence: December 16, 2008

Original Offense: Count One: Possession with Intent to Distribute Crack Cocaine, 21 U.S.C. § 841(a)(1) and 841(b)(1), a Class C felony; Count Three: Possession of a Firearm in Furtherance of a Drug Trafficking Crime, 18 U.S.C. § 924(c)(1)(A), a Class A felony.

Original Sentence: 46 months of Imprisonment; five years supervised release.

Special Conditions: Drug treatment; mental health treatment; access to financial information; search; register as a drug offender pursuant to state law; not own or possess any firearms, ammunition, destructive devices, or other dangerous weapons; DNA collection, special assessment \$200.00.

Prior Form(s) 12: On October 25, 2016, the Court took Judicial Notice that James Richards submitted a positive urine sample and failed to report to drug testing.

On June 12, 2017, the Court modified the conditions of supervised release to require Mr. Richards to participate in a drunk driving victim impact panel, perform 50 hours of community service and complete a first offender DUI program.

On July 9, 2018, the Court issued a summons for Mr. Richards based on failing to notify of a change in address, failing to notify of police contact, failing to submit a monthly report, and a new law violation. On July 27, 2018, Mr. Richards was arraigned and appointed counsel. An amended petition was filed on July 30, 2018, charging Mr. Richards with a new law violation.

On September 14, 2018, the Court revoked Mr. Richard's supervised release after he admitted to the following Charges: Failure to notify the probation officer within 10 days of moving; failure to notify the probation officer within 72 hours of police contact; failure to submit a truthful and complete written report; and commission of a new state crime. Mr. Richards was sentenced to two months in custody with 58 months of supervised release. The Court also added a special condition that the subject reside at a Residential Reentry Center for 10 months and participate in Location Monitoring with GPS for 150 days.

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On February 13, 2019, a Petition for Summons was filed alleging Mr. Richards was terminated from the Residential Re-entry Center. As a resolution to this matter, on February 28, 2019, the Court vacated a status hearing and modified Mr. Richards' conditions to include alcohol abstinence and 256 days on GPS location monitoring.

On March 6, 2020, a Petition for Warrant for Person Under Supervision was filed alleging Richards committed a new law violation.

Type of Supervision

Supervised Release

Assistant U.S. Attorney

Thomas Green

Date Supervision Commenced

September 26, 2018

Defense Counsel

Joyce Leavitt (AFPD)

Petitioning the Court to take judicial notice of the petition which includes the addition of Charges Two, Three, Four, Five and Six. All new charges are indicated in bold print. Richards is currently in custody and scheduled to appear before the Magistrate Judge on March 17, 2020 at 10:30 to be arraigned on the charges contained in this petition.

I, Lavonne Marzett, a Probation Officer employed in the United States District Court for the Northern District of California, solemnly affirm and declare, under penalty of perjury, that to the best of my information and belief, the facts set forth in this affidavit are true and correct. The factual affirmations made below are based on my personal knowledge, on official records or documents generated and maintained by my agency in the course of performing its functions, on official records or documents generated and maintained by other government agents or agencies in the course of performing their functions, or on information provided to me orally or electronically by employees or agents of other public agencies (information developed or acquired in the course of performing official agency functions).

Charge Number

Violation

One

There is probable cause to believe that the person under supervision violated mandatory condition that he must not commit another federal, state or local crime.

On March 5, 2020, Richards committed the offense of PC 422- Criminal Threats/threatened Crime with Intent to Terrorize. On the same date, the Probation Office was advised by the reporting party, Jason Ross, that Mr. Richards threatened to kill several individuals including, Ross' ex-wife, Jessica Ross, Richards' girlfriend, Melissa Swift, and her friend, Natasha Benard. Furthermore, Ross advised a police report was filed with Oakland Police. (Report number 20-012558).

According to Oakland Police Report 20-021558, on March 5, 2020, at approximately 0040hrs, Oakland Police were dispatched to a report of criminal threats. Richards' girlfriend, Melissa Swift, advised she was with her friend, Benard, at 444 Orange St. to assist in her recovery from

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surgery. Richards appeared at the residence and was upset for an unknown reason. Specifically, he was yelling and cursing and at one point instructed Swift to get into a car. Swift believed Richards had been intoxicated. Swift returned to the residence and received several calls from Richards where he advised he was taking money out of their joint bank account. He then stated he was going to “go back there and hurt her friends” and he was going to return to the residence and “kill them.” Swift left the residence and during that time Richards called her via a mobile video connection and showed her a black handgun and stated he was going to kill Benard. Swift met with her friend, Jessica Ross, and went to a Marriott located at 1011 Broadway in Oakland. Shortly thereafter, Richards sent her a text message stating, “1511 Broadway right? Here I come.” At this time, Swift did not wish to press charges.

Oakland Police spoke to Ross who advised Swift informed her of the threats made by Richards. Based on Richards’ threats to kill Swift’s friends and his text message that he was in the area of their hotel, Ross felt threatened and wished to press charges.

Evidence to support this charge is contained in the Probation Office’s chronological notes dated March 5, 2020, and the Oakland Police report 20-12558.

Charge Number

Violation

Two

There is probable cause to believe that the person under supervision violated mandatory condition that he must not commit another federal, state or local crime.

On March 8, 2020, Richards committed the offense of PC 25850(a)- Carrying a Loaded Firearm in Public (Felony); PC 29800(a)(1) - Felon in Possession of Firearm (Felony); PC 32310(a) - Large Capacity Magazine (Felony); PC 417(a)(1) - Brandishing a Firearm (Misdemeanor); PC 148(a) - Resisting, delaying or obstructing a peace officer (Misdemeanor); PC 21651(a)(1) - Driving Wrong Way on the Freeway (Misdemeanor) and Assault on a Peace Officer (Misdemeanor).

On March 8, 2020, at approximately 9:52 a.m. Officer Baza from the California Highway Patrol received a Suspicious Circumstances call by Golden Gate Communications Center (GGCC). GGCC related a concerned resident stated she witnessed an adult, black male, throw a black handgun out his vehicle window on westbound I-980 and 11th St. offramp. Dispatch also related the vehicle was a white panel pickup truck. At approximately 10:04 a.m., Officer Baza was advised by GGCC of a white panel pickup truck traveling the wrong way (southbound) on the Market Street off ramp from

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northbound I-880. Upon arrival Officer Baza observed a white pickup truck facing southbound on northbound I-880 between Broadway and Oak Street. When Officer Baza exited his vehicle, he observe a black male on the bed of the truck, later identified as James Richards. Richards was agitated, his breathing was fast, and his clothing was disheveled. When asked, what was going on, Richards stated that "they were after [him]" and he "doesn't want to get killed." Richards immediately got in the driver's side of the white pickup truck and turned on the ignition and rolled up the driver side window. Richards then placed his hands up through the top of the window. He continued to state people are after him and he did not want to get killed. Due to his behavior, the officer feared Richards would continue driving his vehicle the wrong way and hurt himself and other people. So, he positioned himself directly next to the vehicle near the driver's side and kept a safe distance. Richards stated, "call the helicopter and the Oakland Police with the helicopter." Officer Baza attempted to create a rapport with Richards, however, Richards continued to be hyperactive and incoherent and at one point, placed his vehicle in drive. While Officer Baza was speaking to Richards, Richards stated, "I'm telling you if you touch this vehicle, I'll catch an assault."

Officer D. Ramirez placed spike strip directly in front of the two front tires of the white truck. Richards then placed his vehicle in reverse and his vehicle began traveling to the rear. Richards then placed his vehicle in drive and his vehicle began rolling forward. Richards' attention was diverted towards Sergeant D. Gallegos, who was standing to the right side of the white truck. Officer Baza removed Mr. Richards from the driver's side seat of the white truck and a physical struggle ensued. Officer Ramirez and Officer F. Cuevas assisted Officer Baza in controlling Richards and forced him to the ground while Officer E. Rosales, placed the vehicle in park. Officer Rosales then assisted the other officers by securing Richards in handcuffs. While officers were searching Richards' person, he yelled, "Ya'll bout to kill me man!"

Officer R. Trefforiot located a black Taurus model 740 Slim, .40 caliber pistol, with a VIN #SKS35549, directly next to the concrete barrier of the left shoulder of southbound traffic I-880, directly adjacent to the original location where the white pickup was located upon officer arrival. A subsequent check on the VIN revealed the pistol was not registered. One round was located in the chamber and approximately four rounds in the magazine.

As Officer Baza was driving, Richards began kicking the back window of his patrol vehicle in an attempt to escape. Officer Baza attempted to calm Richards down to no avail as he continued

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kicking the rear right and left passenger side windows. Officer Baza opened the right rear passenger side door and directed Richards to stop kicking the patrol vehicle windows. As Officer Baza attempted to close the door Richards placed his feet outside the car. Officer Andreyev opened the left rear passenger side door in an effort to assist in restraining Richards. Richards became combative by kicking his way out the vehicle on Officer Andreyev's side and began screaming, "Help. Help." At one point, Richards stood on both feet on the traffic side of the offramp and a struggle ensued. Officer Cuevas, Officer Baza and Officer Andreyev assisted in physically controlling Richards as he continued to jerk his body away and kept moving his feet as if attempting to run.

Officer Andreyev placed a nylon restraint on Richards at approximately 10:30 a.m. Once Richards was secured, he was placed in the rear seat of a patrol vehicle and the officers called an ambulance. While in the back seat of the patrol vehicle, Richards made a spontaneous statement related to a murder case he was allegedly investigated by the Oakland Police Department Homicide Unit. Richards related he had a troubled relationship with his girlfriend "Melissa." He further stated he and his girlfriend sat in the Homicide Unit for 8 hours. He continued to state that the Oakland Police tried to tag him with a "body." Richards then asked Officer Trefforiot if he had his recorder on. Officer Trefforiot stated, "I do." Richards then stated, "I'm telling you right now. I killed that man. The one they tried to arrest me for, I killed him...I, James Richards confess to the fucken murder they tried to arrest me for."

Falck Paramedics Rig arrived on scene. While placing him on the gurney, Richards was combative by jerking his body from side to side. At one point, he turned his head towards officer Trefforiot's hands and attempted to bite him by opening his mouth and exposing his teeth. A spit mask was placed on Richard's face to avoid officers getting bit. Due to the level of relentless aggression displayed by Richards, Falck personnel sedated him. Due to Richards driving the wrong way on a busy freeway and placing himself and the public in danger, Office Baza recommended he be placed on a psychiatric evaluation. Richards was cleared at Highland Hospital then transported to John George Psychiatric Hospital.

Officer Baza reported back to westbound I-980 and 11th St. offramp and contacted a witness, identified as Jones. Jones informed she was driving on westbound I-580 approaching High St. and noticed an older model white pick-up with wooden boards on its sides, directly to her right, being driven by a light-skinned black male with dreads, in his 20-30 years of age, and appeared confused

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and nervous. She stated he was making erratic hand movements and kept looking around and was the sole occupant of the white pickup. She related the black male then pointed what appeared to be a gun towards her. She stated the gun was black. She saw the muzzle and the top part (chamber) of it pointed towards her direction as she was driving. She was unable to remember in which hand he was holding the gun but did remember his eyes were wide open as he made eye contact with her, as he was pointing the gun towards her direction. She feared for her safety, so she continued traveling westbound on I-580 and attempted to avoid the pick-up. Once on westbound I-980, she observed the white pickup exited on the 18th St. offramp and toss a black handgun out the driver's side window. The black handgun landed within the concrete roadway and then towards the grassy embankment near the freeway.

Officer Baza conducted a perimeter search of the area and located a black pistol with an inserted extended 30-round 12 magazine, approximately 10-15 feet away from the 18th St. offramp. He observed the pistol had black tape covering the rear sight and located one round in the chamber and 16 rounds in the magazine. The black pistol 15 was a Glock 17, with a VIN #ETI00US. A VIN search through GGCC, which returned unregistered.

Evidence to support this charge is contained the Department of California Highway Patrol report 184-370-20.

Charge Number

Violation

Three

There is probable cause to believe that the person under supervision violated special condition number six which states that he must not own or possess any firearms, ammunition, destructive devices, or other dangerous weapons.

As noted in Charge Two, Richards was arrested for being in possession of a firearm.

Evidence to support this charge is contained the Department of California Highway Patrol report 184-370-20

Charge Number

Violation

Four

There is probable cause to believe that the person under supervision violated special condition number six which states that he must not own or possess any firearms, ammunition, destructive devices, or other dangerous weapons.

As noted in Charge Two, Richards was in possession of ammunition.

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Evidence to support this charge is contained the Department of California Highway Patrol report 184-370-20.

Charge Number

Violation

Five

There is probable cause to believe that the person under supervision violated special condition number one which states that he must participate in a program of testing and treatment for drug abuse, as directed by the probation officer, until such time as you are released from treatment by the probation officer. He is to pay part or all of the cost of this treatment, at an amount not to exceed the cost of treatment, as deemed appropriate by the probation officer. Payments shall never exceed the total cost of urinalysis and counseling. The actual co-payment schedule shall be determined by the probation officer.

On December 11, 2019, December 18, 2019, January 15, 2020, February 11, 2020, February 17, 2020 and March 5, 2020, Richards failed to report to Dolan Mental Health for urinalysis.

On December 2, 2019, Dolan Mental Health staff contacted USPO Marzett via email. It was advised that Richards appeared to have an outside pee device with him. Staff also advised they could not discuss anything with Richards because "he can get loud".

On January 28, 2020, USPO Marzett had telephone contact with Dolan Mental Health staff to discuss Richards. She informed Richards was having issues with the UA technician. She informed he has a poor attitude towards staff and makes UA submission an issue every time.

On January 31, 2020, USPO Marzett had telephone contact with the UA technician at Dolan Mental Health to discuss Richards' behavior. He informed Richards is very hyper and uncooperative. He went on to say, Richards has a hard time following instruction. Staff informed when he believes Richards is tampering with urine testing, he is uncooperative. Otherwise, there are no issues with client. Staff informed they do not want a hostile environment at the office as their bathroom is shared in the building and Richards has a tendency to get loud. Staff informed other guests feel uncomfortable when they are in the restroom.

Evidence to support this charge is contained in the Probation Office's chronological notes dated December 2, 2019, December 11, 2019, December 18, 2019, January 15, 2020, January 28, 2020, January 31, 2020, February 11, 2020, February 17, 2020 and March 5, 2020.

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Charge Number**Violation****Six**

There is probable cause to believe that the person under supervision violated special condition number one which states that he must participate in a mental health treatment program, as directed by the probation officer. He is to pay part or all cost of this treatment, at an amount not to exceed the cost of treatment, as deemed appropriate by the probation officer. Payments shall never exceed the total cost of mental health counseling. The actual co-payment schedule shall be determined by the probation officer.

On February 7, 2020, Richards failed to report to Dolan Mental Health for a scheduled individual mental health counseling session.

Evidence to support this charge is contained in the Dolan Mental Health No Show Notification dated February 7, 2020.

Based on the foregoing, there is probable cause to believe that James Richards violated the conditions of his Supervised Release. Therefore, I ask the Court to issue a no bail warrant for his arrest.

Respectfully submitted,

Reviewed by:



Lavonne Marzett

U.S Probation Officer

Date Signed: March 17, 2020



Michael J. Primeau

Supervisory U.S. Probation Officer

Having considered the information set forth above, the court finds there is probable cause to believe there has been a violation of the conditions of supervision and orders:

- ☒ **The Court takes judicial notice of the additional charges in the petition. Richards is currently in custody and scheduled to appear before the Magistrate Judge on March 17, 2020 at 10:30 to be arraigned on the charges contained in this petition.**

☐ Other:

March 17, 2020

Date



Saundra Brown Armstrong

Senior United States District Judge

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APPENDIX

Grade of Violations: A USSG § 7B1.1(a)(2), p.s.

Criminal History at time of sentencing: V

	Statutory Provisions	Guideline Provisions
Custody:	Count One: Two Years 18 U.S.C. § 3583(e)(3)	Count One: 30-37 months USSG § 7B1.4(a), p.s.
	Count Three: Five Years 18 U.S.C. § 3583(e)(3)	Count Three: 46-57 months USSG § 7B1.4(a), p.s.
Supervised Release:	Count One: Maximum Life 21 U.S.C. § 841(b)(1)	Count One: Maximum Life 21 U.S.C. § 841(b)(1)
	Count Three: Five Years, less any time in custody 18 U.S.C. § 3583(h)	Count Three: Five Years, less any time in custody USSG § 7B1.3(g)(2)
Probation:	Not Authorized	Not Applicable